

HOUSE BILL NO. 325

INTRODUCED BY P. MORGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL PARTY NOMINATIONS AND APPOINTMENTS TO FILL VACANCIES IN PRIMARY ELECTIONS; AND AMENDING SECTIONS 13-10-208, 13-10-325, 13-10-326, 13-10-327, AND 13-12-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Political party prohibited from filling vacancy in primary election if election law violated -- exception. (1) In a primary election, if a candidate is required to withdraw because of a violation of a provision of this title or because the candidate is not eligible to seek or hold the office for which the candidate filed, the political party is prohibited from appointing someone to replace the candidate, except as provided in this section.

(2) If the candidate withdraws after the primary ballot was certified and wins the election:

(a) in a contested primary, the candidate with the second most votes is nominated; or

(b) in an uncontested primary, a candidate for the party is not nominated, except as provided in subsection (3).

(3) This section does not apply if the application of this section would result in none of the political parties nominating a candidate for the general election.

Section 2. Section 13-10-208, MCA, is amended to read:

"13-10-208. Certificate of primary ballot -- preparing ballot. (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(2) Not more than 67 days and not less than 62 days before the date of the primary election, the election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots

1 prepared in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

2 (3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana
3 constitution to seek the office for which the candidate has filed because the candidate has changed residence,
4 the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in
5 13-10-325.

6 (4) If a candidate for the office of governor, lieutenant governor, secretary of state, attorney general,
7 superintendent of public instruction, or state auditor is found to be ineligible to seek the office for which the
8 candidate has filed, the secretary of state shall notify the candidate that the candidate is required to withdraw
9 as provided in 13-10-325."

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11 **Section 3.** Section 13-10-325, MCA, is amended to read:

12 **"13-10-325. Withdrawal from nomination.** (1) A candidate for nomination or candidate for election to
13 an office may withdraw from the election by sending a statement of withdrawal to the officer with whom ~~his~~ the
14 candidate's declaration, petition, or acceptance of nomination was filed. The statement must contain all
15 information necessary to identify the candidate, ~~and~~ the office sought, and the reason for withdrawal. ~~It shall~~ The
16 statement must be sworn or affirmed before an officer empowered to administer oaths. A candidate may not
17 withdraw later than 85 days before a general election ~~or 75 days before a primary election. Subject to 13-10-208~~
18 and 13-12-201, a candidate's withdrawal prior to a primary election is governed by 13-10-326.

19 (2) Filing fees paid by the candidate may not be refunded."
20

21 **Section 4.** Section 13-10-326, MCA, is amended to read:

22 **"13-10-326. Vacancy prior to primary election.** (1) ~~Subject to [section 1], if~~ a candidate for
23 nomination for a partisan office dies or withdraws 75 days or more before the primary election, the affected
24 political party may appoint someone to replace the candidate by the procedure provided in 13-10-327 if that
25 political party does not have another candidate seeking that nomination.

26 ~~(2) If the death or withdrawal occurs~~ Subject to [section 1], if a candidate for nomination dies or
27 withdraws less than 75 days before the primary, the affected political party shall appoint a candidate after the
28 primary, as provided in 13-10-327, if a candidate for that office for that party was not nominated at the primary
29 election.

30 (3) This section does not allow a political party to appoint a candidate for an office if ~~no~~ a candidate for

1 nomination by that party ~~filed~~ did not file for the office before the primary election."

2
3 **Section 5.** Section 13-10-327, MCA, is amended to read:

4 **"13-10-327. Vacancy after primary and prior to general election.** (1) ~~Except~~ Subject to [section 1],
5 except as provided in 13-10-328 for a vacancy in the candidacy of either governor or lieutenant governor caused
6 by the death of a candidate, if a party candidate dies or withdraws after the primary and before the general
7 election, the affected political party shall appoint someone to replace the candidate in one of the following ways:

8 (a) For offices to be filled by the state at large, the state central committee shall make the appointment
9 as provided by the rules of the party.

10 (b) For offices to be filled in districts including more than one county, a committee appointed by the
11 county central committees of all counties in the district shall make the appointment. Procedures for the
12 appointment of the committee and making the appointment must be provided in party rules.

13 (c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment
14 must be made under rules adopted by the county central committee.

15 (2) Except as provided in this section, appointments to fill vacancies must be made no later than 76
16 days before the election. A candidate may not officially withdraw 85 days or less before a general election unless
17 the candidate is required to withdraw because of a violation of a provision of this title or the candidate is found
18 to be ineligible to seek or hold the office for which the candidate filed. However, if a candidate for partisan office
19 dies less than 85 days before the general election, the affected political party shall appoint a candidate within
20 5 days after being notified of the vacancy. One of the procedures provided in 13-12-204 must be used to place
21 the name of the appointee on the ballot if necessary.

22 (3) The appointing committee shall send a certificate to the officer with whom a declaration for
23 nomination for the office would be filed, with the information required on a declaration for nomination and the
24 name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and
25 acknowledged acceptance of the appointment and the filing fee for the office.

26 (4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance and
27 the filing fee, shall certify the name of the appointee for the ballot."

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29 **Section 6.** Section 13-12-201, MCA, is amended to read:

30 **"13-12-201. Secretary of state to certify ballot.** (1) ~~Seventy-five~~ Except as provided in 13-10-208, 75

1 days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the
2 election administrators the name and party or other designation of each candidate entitled to appear on the ballot
3 and the ballot issues as shown in the official records of the secretary of state's office, which must include the
4 notification specified in 13-37-126.

5 (2) The election administrator shall certify the name and party or other designation of each candidate
6 entitled to appear on the ballot and the ballot issues as shown in the official records of the election
7 administrator's office, which must include the notification specified in 13-37-126, and ~~shall~~ must have the official
8 ballots prepared.

9 (3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana
10 constitution to seek the office for which the candidate has filed because the candidate has changed residence,
11 the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in
12 13-10-325.

13 (4) If a candidate for the office of governor, lieutenant governor, secretary of state, attorney general,
14 superintendent of public instruction, or state auditor is found to be ineligible to seek the office for which the
15 candidate has filed, the secretary of state shall notify the candidate that the candidate is required to withdraw
16 as provided in 13-10-325."

17
18 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
19 integral part of Title 13, chapter 10, part 3, and the provisions of Title 13, chapter 10, part 3, apply to [section 1].

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